

REMARKS

The Applicants have carefully considered the official action dated October 29, 2008, and the references cited therein. In the official action, claims 1, 3, and 4 were rejected under 35 USC § 103(a) as unpatentable over Coile et al. (US Patent 6,108,300) in view of Chen et al. (US 2005/0013242). Claims 2 and 5-22 were rejected under 35 USC § 103(a) as unpatentable over Coile et al. in view of Chen et al and in further view of one or more of Ashton et al. (US 6,181,679), Daley (US 5,650,994), and Wahl et al. (US 2002/0089985). By way of this response, the Applicants have amended claims 1, 13, and 22. In view of the following remarks, the Applicants respectfully traverse the rejections and submit that all claims are in condition for allowance. Favorable reconsideration of this application is respectfully requested.

I. Examiner's Comment Regarding Previous Amendment to Specification

The Applicants thank Examiner Shivers for pointing out the believed error in the page/line numerations presented in the Applicants' response of March 7, 2008, regarding an amendment to the specification beginning at page 3, line 5 and ending at page 3, line 15. After reviewing the Applicants' specification filed on April 22, 2004, the Applicants believe that the page/line numerations indicated in the March 7, 2008, response are correct and do not require correction. By way of this response, the Applicants re-submit the noted amendment to the specification and respectfully request entry thereof. If the Examiner believes that a phone conference would help to resolve this issue, the Examiner is invited to contact the undersigned representative.

II. Independent Claim 1

The Applicants respectfully submit that independent claim 1 is allowable over Coile et al. and Chen et al. Independent claim 1 is directed to a method and recites, among other things, providing a network management module for receiving a customer report indicating a network circuit failure in a data network, wherein the network circuit failure is detected by receiving trap data indicating the network circuit failure, wherein the trap data comprises status information indicating that a switch in the data network is discarding frames or cells. Chen et al. describe receiving a failure message from a device located downstream, close to a failure point, but do not describe that the failure message includes status information indicating that a switch in the data network is discarding frames or cells. The official action suggests that “[i]t would have been obvious that any packets sent to a failed link would be dropped and therefore would be the cause of the message being sent to the source indicating

that there is a failure at that device.” *Office Action dated October 29, 2008*, p. 6. The Applicants respectfully submit that even if dropped packets were the *cause* of a message being sent, the failure message of Chen et al. does not include status information indicating that a switch is discarding frames or cells.

In addition, the Applicants respectfully submit that it is not obvious that a failure message is indicative that a switch is discarding frames or cells. Chen et al. describe that a failure can derive from a failed link or a failed network device. *Chen et al.*, ¶ [0017] and [0023]. When a failure occurs due to a failed link, the link is the cause of discarded information, not a network device. That is, a network device may be operational and not discarding frames or cells, while discarded frames or cells is due to the failed link. Thus, a failure message associated with a failed link would not be indicative of a network device discarding frames or cells because the network device is not the cause of the discarded frames or cells.

Chen et al. describe that a failure is handled the same way regardless of whether the failure is due to a failed link or a failed network device. *Chen et al.*, ¶ [0023] (“Even though the failure occurs at a neighboring network device 120, the same technique(s) described with regard to FIG. 1 above may be used to bypass such a failure.”). Therefore, the Applicants respectfully submit that there would be no need for the Chen et al. failure messages to include status information indicating that a switch in the data network is discarding frames or cells as such information would be unnecessary.

In view of the foregoing, the Applicants respectfully submit that the suggested combination of Coile et al. and Chen et al. does not render claim 1 *prima facie* obvious. Accordingly, the Applicants respectfully submit that independent claim 1 and all claims dependent thereon are in condition for allowance.

III. Independent Claim 13

The Applicants respectfully submit that independent claim 13 is allowable over Coile et al., Chen et al, and Ashton et al. Independent claim 13 is directed to a system and recites, among other things, a network management module for receiving a customer report indicating a network circuit failure in a data network, wherein the network circuit failure is detected by receiving trap data indicating the network circuit failure, wherein the trap data comprises status information indicating that a switch in the data network is discarding frames or cells. For at least the reasons discussed above in connection with independent claim 1, the Applicants respectfully submit that the suggested combination of Coile et al., Chen et al, and

Ashton et al. do not render claim 13 *prima facie* obvious. In particular, Chen et al. do not teach or suggest a network management module for receiving a customer report indicating a network circuit failure in a data network, wherein the network circuit failure is detected by receiving trap data indicating the network circuit failure, wherein the trap data comprises status information indicating that a switch in the data network is discarding frames or cells. Neither Coile et al. nor Ashton et al. overcome these deficiencies. Thus, it would not have been obvious to one of ordinary skill in the art at the time of the invention to modify Chen et al. to receive failure messages having status information indicating that a switch in the data network is discarding frames or cells. Accordingly, the Applicants respectfully submit that independent claim 13 and all claims dependent thereon are in condition for allowance.

IV. Independent Claim 22

The Applicants respectfully submit that independent claim 22 is allowable over Coile et al., Chen et al, and Ashton et al. Independent claim 22 is directed to a method and recites, among other things, providing a network management module for receiving a customer report indicating a network circuit failure in a data network, wherein the network circuit failure is detected by receiving trap data indicating the network circuit failure, wherein the trap data comprises status information indicating that a switch in the data network is discarding frames or cells. For at least the reasons discussed above in connection with independent claim 1, the Applicants respectfully submit that the suggested combination of Coile et al., Chen et al, and Ashton et al. do not render claim 22 *prima facie* obvious. In particular, Chen et al. do not teach or suggest providing a network management module for receiving a customer report indicating a network circuit failure in a data network, wherein the network circuit failure is detected by receiving trap data indicating the network circuit failure, wherein the trap data comprises status information indicating that a switch in the data network is discarding frames or cells. Neither Coile et al. nor Ashton et al. overcome these deficiencies. Thus, it would not have been obvious to one of ordinary skill in the art at the time of the invention to modify Chen et al. to receive failure messages having status information indicating that a switch in the data network is discarding frames or cells. Accordingly, the Applicants respectfully submit that independent claim 22 and all claims dependent thereon are in condition for allowance.

V. Conclusion

In view of the foregoing, the Applicants respectfully submit that this application is in condition for allowance and request an early favorable action on the merits. If there are any remaining matters that the Examiner would like to discuss, the Examiner is invited to contact the undersigned representative at the telephone number set forth below.

The Commissioner is hereby authorized to charge any deficiency in the amount submitted or any additional fees which may be required under 37 CFR 1.16 or 1.17 to Deposit Account No. 50-2455. Please refund any overpayment to Hanley, Flight & Zimmerman, LLC, at the address below.

In addition, if a petition for an extension of time under 37 CFR 1.136(a) is necessary to maintain the pendency of this case and is not otherwise requested in this case, the Applicants request that the Commissioner consider this paper to be a petition for an appropriate extension of time and hereby authorize the Commissioner to charge the fee as set forth in 37 CFR 1.17(a) corresponding to the needed extension of time to the above deposit account.

Correspondence Address:

AT&T Legal Department

Attn: Patent Docketing
USPTO Customer Number 83417
One AT&T Way
Room 2A-207
Bedminster, NJ, 07921
Phone: 404.927.2780

Respectfully submitted,

By: /Felipe Hernandez/
Felipe Hernandez
Registration No.: 61,971
Hanley, Flight & Zimmerman, LLC
Attorneys for AT&T, Inc.

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